

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

In Re: Delta Farm Services, LLC

Case no. 18-12668

Debtor In Possession

Chapter 11

**MOTION TO CONVERT, OR IN THE
ALTERNATIVE TO DISMISS**

Comes now, David W. Asbach, the Acting United States Trustee for Region 5, "UST," by and through undersigned counsel, pursuant to 11 U.S.C. 1112(b) and Fed. R. Bankr. P. 1017, and files this Motion to Convert to a Chapter 7 Case, or in the alternative to Dismiss the above styled and numbered case, and in support thereof will show unto the court as follows, to-wit:

JURISDICTION AND STANDING

I.

This Court has jurisdiction over this matter, pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 1112, and the order granting automatic reference to this Court. This matter constitutes a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

II.

On July 11, 2018, the Debtor, Delta Farm Services, LLC, filed a voluntary petition for relief pursuant to 11 U.S.C. Chapter 11.

CAUSE FOR CONVERSION OR DISMISSAL

III.

The Chapter 11 debtor is required to file monthly operating reports. *See* Rule 2015 of the Federal Rules of Bankruptcy Procedure and the United States Trustee Chapter 11 Operating Guidelines and Reporting Requirements, as promulgated pursuant to 28 U.S.C. § 586(a)(3).

IV.

This debtor has not filed monthly operating reports since the inception of this case.¹

V.

In addition the debtor is required to pay UST quarterly fees until such time that the Chapter 11 case is converted or dismissed. *See* 28 U.S.C. § 1930(a)(6). The UST cannot confirm that the debtor is current on the payment of UST quarterly fees in the absence of current monthly operating reports.

VI.

Failure of the debtor to remain current with the filing of monthly operating reports and the payment of UST quarterly fees are grounds to convert or dismiss this case. *See* 11 U.S.C. 1112 (b)(4)(F)(H) and (K).

¹ The debtor was notified by the UST on November 1, 2018 and November 29, 2018 of this deficiency.

VII.

The debtor was to have filed a plan of reorganization and disclosure statement no later than January 7, 2019, pursuant to the *Order Extending Time to File Disclosure Statement and Plan of Reorganization*. See DKT. 50. To date, a plan and/or disclosure statement has not been filed.

VIII.

The UST reserves the right to bring additional grounds for cause to convert or to dismiss this case at a hearing on this matter.

WHEREFORE, PREMISES CONSIDERED, the UST submits this motion to convert, or in the alternative dismiss the above styled and numbered case and prays that the court will enter an order sustaining this motion.

The UST prays for general relief to which entitled in these premises.

Respectfully submitted,

David W. Asbach,
Acting United States Trustee
Region 5, Districts of
Louisiana and Mississippi

by: /s/ Sammye S. Tharp
Sammye S. Tharp
Trial Attorney

Sammye S. Tharp, Trial Attorney
United States Trustee, Region 5
Department of Justice
501 East Court Street, Suite 6-430
Jackson, MS 39201
Telephone no. (601)965-4142
MS Bar no.10016

CERTIFICATE OF SERVICE

I, Sammye S. Tharp, Trial Attorney for the UST, do hereby certify that a true and correct copy of the foregoing motion to convert, or in the alternative to dismiss the above styled and numbered case has been tendered to the individuals listed below by U. S. Mail, postage prepaid, *and/or CM/ECF* on this the 29th day of January, 2019.

Craig M. Geno, Esq.
Craig M. Geno PLLC
cmgeno@cmgenolaw.com

/s/ Sammye S. Tharp
Sammye S. Tharp